

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MILTON EBANKS and SHIRLEY)	
ANN EBANKS,)	
)	
Plaintiffs,)	
)	
v.)	CIVIL ACTION FILE
)	NO. _____
NLH CORPORATION,)	
)	
Defendant.)	
_____)	

NOTICE OF REMOVAL

Defendant NLH Corporation (“NLH”) hereby gives notice of the removal of the civil action known as *Milton Ebanks and Shirley Ann Ebanks v. NLH Corporation*, Civil Action No. 2020CV343913 (the “Superior Court Action”) from the Superior Court of Fulton County, Georgia, to the United States District Court for the Northern District of Georgia, Atlanta Division, and in support thereof states as follows:

BACKGROUND

1.

Plaintiffs Milton Ebanks and Shirley Ann Ebanks filed the Superior Court Action on December 23, 2020, naming NLH as Defendant. True and correct copies of all process, pleadings and orders received by NLH in said civil action are attached hereto as **Exhibit A**.

2.

NLH has not been served with process.

3.

This Notice of Removal is filed within 30 days after receipt by NLH, through service or otherwise, of the complaint setting forth the claim for relief upon which this action is based, and, therefore, it is timely within the provisions of 28 U.S.C. §1446(b).

PARTIES

4.

Plaintiffs are citizens of the State of Georgia.

5.

NLH was at the time of the commencement of this action and has been at all times thereafter, through and including the present time, a Missouri corporation with its principal place of business in the State of Missouri.

GROUND FOR REMOVAL

6.

Removal is proper because this Court has Subject Matter Jurisdiction under 28 U.S.C. § 1332.

7.

The United States District Courts are vested with jurisdiction in this case under 28 U.S.C. § 1332 because the amount in controversy exceeds \$75,000.00 and the parties are citizens of different states.

8.

With respect to the amount in controversy, Plaintiff seeks to enjoin NLH from foreclosing on real property located at 1380 Forest Parkway, Lake City, GA 30260. (Compl. at ¶ 5). And when a plaintiff seeks non-monetary relief, the amount in controversy is the monetary value of the object of the litigation from the plaintiff's perspective. *See Federated Mut. Ins. Co. v. McKinnon Motors, LLC*, 329 F.3d 805,

807 (11th Cir. 2003); *Owners Ins. Co. v. James*, 295 F. Supp. 2d 1354, 1358 (N.D. Ga. 2003).

9.

The amount in controversy exceeds \$75,000.00 because according to the Clayton County tax records, the Property has a market value of \$271,500.00 (*See* printout from the Clayton County Tax Assessor's website last visited on December 28, 2020, a copy of which is attached hereto as **Exhibit B**). Thus, the amount in controversy exceeds \$75,000.00 based on the monetary value of the object of the litigation from the plaintiff's perspective.

10.

As set forth above in Paragraphs 4 and 5, Plaintiffs are citizens of Georgia and Defendant is a not citizen of Georgia. Consequently, complete diversity of citizenship exists between Plaintiffs and Defendant.

11.

Given that the Court has original jurisdiction as shown above, removal of this action is proper under 28 U.S.C. § 1446 because:

- (a) this Notice of Removal is being filed within thirty (30) days of the Defendant's receipt (through service or otherwise) of the Complaint;
- (b) this Notice of Removal is being filed within one (1) year of the date of commencement of the action for removal purposes; and

(c) Defendant has not previously sought similar relief.

12.

Venue for removal of this action to this Court is proper because it is the district court of the United States for the district and division in which the state civil action being removed is pending within the meaning of 28 U.S.C. § 1441 and § 1446(a).

13.

A copy of the Notice of Removal will be contemporaneously filed with the Superior Court of Fulton County, Georgia. A copy of the filing with the Superior Court without exhibits is attached hereto as **Exhibit C**.

WHEREFORE, NLH respectfully requests that the entire action referred to hereinabove proceed in the United States District Court for the Northern District of Georgia, Atlanta Division, and that no further proceeding be held in said case in the Superior Court of Fulton County, Georgia.

Respectfully submitted, this 28th day of December, 2020.

s/ Gregory M. Taube

Gregory M. Taube

Georgia Bar No. 699166

Attorney for Defendant

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CERTIFICATE OF COMPLIANCE

Pursuant to the Civil Local Rules of Practice for the United States District Court for the Northern District of Georgia, this is to certify that the foregoing complies with the font and point selections approved by the Court in Local Rule 5.1C. The foregoing was prepared on computer using Times New Roman font (14 point).

This 28th day of December, 2020.

s/ Gregory M. Taube
Gregory M. Taube
Georgia Bar No. 699166

Attorney for Defendant

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the within and foregoing *NOTICE OF REMOVAL* by depositing a copy of same in the United States Mail in a properly addressed envelope with sufficient postage affixed thereto to ensure delivery to the following:

Grady Roberts
Roberts Law LLC
4470 Satellite Blvd, Suite 101
Duluth, GA 30096

This 28th day of December, 2020.

s/ Gregory M. Taube
Gregory M. Taube
Georgia Bar No. 699166

Attorney for Defendant

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